

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:

Case No. 16-30459

Kimberly MH Bolden

Chapter 13

Debtor.

Hon. Judge Jack B. Schmetterer

**NOTICE OF MOTION OF US BANK TRUST NATIONAL ASSOCIATION AS
TRUSTEE OF THE CABANA SERIES IV TRUST TO MODIFY AUTOMATIC STAY**

VIA ELECTRONIC NOTICE:

Christine H Clar, David M Siegel & Associates, 790 Chaddick Drive,
Wheeling, IL 60090

M.O. Marshall, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603

VIA U.S. MAIL:

Kimberly MH Bolden, Debtor
1929 N. Howe Street, Unit #1E
Chicago, IL 60614

PLEASE TAKE NOTICE that on July 8, 2021, we have electronically sent for filing with the Clerk of the U.S. Bankruptcy Court, a Motion of US Bank Trust National Association as Trustee of the Cabana Series IV Trust to Modify Automatic Stay, a copy of which is hereto attached.

Please take notice that on July 28, 2021 at 9:30 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Cassling in place of Honorable Judge Schmetterer, or any judge sitting in that judge's place, and present the attached ***Motion of US Bank Trust National Association as Trustee of the Cabana Series IV Trust to Modify Automatic Stay***, which has been electronically filed this date with the Clerk of the U.S. Bankruptcy Court for the Northern District of Illinois, a copy of which is hereby attached and served upon you by electronic notice or U.S. Mail.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is 161 414 7941 and the password is 619. The meeting ID and password can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion without a hearing.

Dated: July 8, 2021

Respectfully Submitted,

/s/ Jon J. Lieberman

Jon J. Lieberman (OH 0058394)
Sottile & Barile, Attorneys at Law
394 Wards Corner Road, Suite 180
Loveland, OH 45140
Phone: 513.444.4100
Email: bankruptcy@sottileandbarile.com
Attorney for Movant

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the above-named parties by electronic filing or, as noted above, by placing same in a properly addressed and sealed envelope, postage prepaid, and depositing it in the United States Mail at 394 Wards Corner Rd., Suite 180, Loveland, OH 45140 on July 8, 2021, before the hour of 5:00 p.m.

/s/ Jon J. Lieberman

Jon J. Lieberman (OH 0058394)
Attorney for Movant

**UNITED STATES BANKRUPTCY COURT
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**MOTION OF US BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE
CABANA SERIES IV TRUST FOR RELIEF FROM STAY**

NOW COMES US Bank Trust National Association as Trustee of the Cabana Series IV Trust (hereinafter, “Movant”), a secured creditor herein, by and through its attorneys, the law firm of Sottile & Barile, LLC, moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 11 U.S.C. §§361, 362 and 363 of the United States Bankruptcy Code.
2. On March 31, 1994, the Debtor did execute a certain Note in the amount of \$90,000.00 (Exhibit A), secured by a Mortgage on the property commonly known as 1929 N How Street, Chicago, IL 60614 (Exhibit B).
3. Enforcement of Movant’s security interest has been stayed automatically by operation of 11 U.S.C. § 362 of the Bankruptcy Code upon Debtors’ filing of this petition on August 11, 2014.
4. The Debtor’s Modified Chapter 13 Plan was confirmed on June 21, 2017. Section C of the Modified Plan provides for the Debtors to make current monthly mortgage payments in the amount of \$870.00 a month, directly to Movant. Section E (5) of the Modified Plan provides for Movant to receive monthly disbursements from the

Chapter 13 Trustee to cure the pre-petition arrearage amount of \$98,568.50 as indicated in the confirmed plan.

5. For the purposes of this Motion for Relief and this bankruptcy only, as of July 7, 2021, there remains due and owing on the Note and Mortgage referenced in paragraph two hereof, the amount of \$150,768.50. This is the amount that Debtor was to pay Movant during the course of this bankruptcy only per the terms of the confirmed plan, as indicated in this Court's June 24, 2021 entered Order. The amounts indicated on the attached REQUIRED STATEMENT as owed by the Debtor are also accurate only for the purposes of this Motion for Relief and this bankruptcy, as they reflect the terms of the confirmed plan only.
6. For the purposes of this Motion for Relief and this bankruptcy only, the Debtor is delinquent on direct post-petition mortgage payments to Movant in the amount of \$870.00 each per the confirmed plan. Since plan confirmation, Debtor should have made 49 payments of \$870.00 each to Movant per the confirmed plan. As of July 7, 2021, the Debtor has only made 3 payments of \$1,300.00 each to Movant since the filing of the bankruptcy. As for the pre-petition arrearage, the Trustee disbursed one payment of \$1,527.30 to Movant on August 31, 2020.
7. Continuation of the automatic stay will cause irreparable harm to Movant and will deprive it of the adequate protection to which it is entitled.
8. This Court has authority to order that Rule 4001(a)(3) is waived to the order entered in granting this motion, and Movant requests this Court so order.

WHEREFORE, Movant prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, and for such other and further relief as this Court may deem just and proper.

Dated: July 8, 2021

Respectfully Submitted,

/s/ Jon J. Lieberman

Jon J. Lieberman (OH 0058394)
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